

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1875 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
30/07/2004 in WP NO: 11239 OF 2004 on the file of the High Court.)

Between:

- 1 APSRTC rep., by its Managing Director, Mushirabad, Hyderabad.
- 2 The Divisional Manager, APSRTC, Medak at Sangareddi, Medak

District.

- 3 The Regional Manager, APSRTC, Medak at Sangareddi, Medak

District.

- 4 The Depot Manager, APSRTC, Zaheerabad, Medak District.

APPELLANTS

AND

D.Nagender, E.95350, s/o D.Shivaiah, R/o H.No.1-4-113, Main Road,
Nalsab Mohella, Zaheerabad, Medak
District.

RESPONDENT

Counsel for the Appellant: MR.P.VINAYAKA SWAMY

Counsel for the Respondent: MR.P.RAGHAVENDRA REDDY

The Court made the following:

JUDGMENT : (Per the Honourable Smt. Justice T.Meena Kumari)

This writ appeal is filed by the Corporation-appellants herein aggrieved by the order in W.P. No: 11239 of 2004, under which the learned single Judge disposed of the said writ petition.

Both the Counsel have agreed for final disposal of the appeal.

The appellants herein are the Corporation and the respondent herein is the writ petitioner.

The writ petitioner who worked as a conductor in the Corporation was removed from service on 9-5-2001 for certain irregularities. In the appeal preferred by him, the second appellant-Divisional Manager set aside the order of the first appellant-Managing Director reinstating him into service with immediate effect treating the period of removal from service to the date of reporting to duty as not on duty for all purposes. Aggrieved by the same, the writ petitioner-conductor preferred a review before the third appellant-Regional Manager, who in turn confirmed the order of the second appellant-Divisional Manager. Challenging the same, the writ-petitioner filed the writ petition seeking to set aside the order of the Divisional Manager, APSRTC, Medak Division dated 30-8-2001 to the extent of reinstating him as Conductor afresh and treating the period from the date of removal i.e., 9-5-2001 till 30-8-2001 as continuity of service. The learned single Judge having considered the rival contentions and the material available on record while interpreting the word "reinstatement", modified the order impugned to the extent as indicated below:

"the petitioner is entitled to get the period from the date of removal to the date of reinstatement be treated as continuity of service without monetary benefit but the period shall be treated as continuity of service for the purpose of computing the notional increments and other benefits to which, the petitioner is entitled for the entire period of service."

Having aggrieved by the same, the present writ appeal is preferred by the Corporation-appellants.

Heard the learned counsel.

It is contended by the learned counsel for the Corporation-appellants that in view of the seriousness of the misconduct of the writ petitioner, the punishment imposed by the Corporation, is justified and therefore, the learned single Judge erred in modifying the order of the appellants and the same is liable to be set aside.

On the other hand, it is contended by the learned counsel for the writ petitioner that in view of the fact that modification of the order as to the reinstatement as fresh conductor, is only in respect of the continuity of service and for the purpose of computing the notional increments and other benefits, there is no illegality or irregularity in the order of the learned single Judge. It is further submitted that the writ petitioner has already put in 21 years of service and in case he is reinstated at this fag end of the service as a fresh conductor, it would result in loss of terminal benefits.

We have perused the order impugned and the entire material available on record.

In the facts and circumstances of the case and in view of the nature of the charge against the writ petitioner, We modify the order of the learned single Judge to the extent as indicated below:

“the writ petitioner-conductor shall be reinstated into service and such reinstatement shall be with continuity of service, but without any monetary benefit. The past service of the writ petitioner-conductor has to be taken into consideration for the purpose of only in respect of Pensionary and Terminal benefits at the time of retirement”.

Subject to the above modification, the writ appeal is disposed of.

Justice T.Meena Kumari

Date : 19th January, 2005

Justice S.Ananda Reddy

Dvs/Gurc.

Copies to :

- 1 The Managing Director, APSRTC, Mushirabad, Hyderabad.
- 2 The Divisional Manager, APSRTC, Medak at Sangareddi, Medak

District.

- 3 The Regional Manager, APSRTC, Medak at Sangareddi, Medak

District.

- 4 The Depot Manager, APSRTC, Zaheerabad, Medak District.

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HONOURABLE SMT. JUSTICE T. MEENA KUMARI

&

HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A. No. 1875 of 2004
(Judgment delivered by the Honourable
Smt.Justice T. Meena Kumari)

19th January, 2005